

DOCKET FILE COPY ORIGINAL

ORIGINAL  
RECEIVED

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

APR 08 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE CLERK

In the Matter of )

Petition for Expedited Interim Waiver of )  
Section 52.33(a) of the Commission's )  
Number Portability Rules )

CC Docket No. 95-116

CCB/CPD No. 99-9

**MCI WORLDCOM OPPOSITION**

**I. Introduction**

Pursuant to the Commission's March 24th, 1999 Public Notice,<sup>1</sup> MCI WorldCom, Inc. (MCI WorldCom) hereby submits its comments on the "Petition for Expedited Interim Waiver" filed by the National Exchange Carrier Association, Inc. (NECA), National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the United States Telephone Association (USTA) on March 19, 1999.

Petitioners contend that the Commission's rules, as currently written, do not permit small ILECs operating outside the largest 100 Metropolitan Statistical Areas (MSAs) to recover the costs of contributing to the NPACs or the cost of queries required

No. of Copies rec'd 0 + 4  
List ABCDE

<sup>1</sup>Public Notice, DA 99-581, March 24, 1999.

to provide joint local calling with larger ILECs.<sup>2</sup> They request, therefore, that the Commission waive its rules “to the extent that section 52.33(a) can be read to prohibit non-LNP-providing ILECs from directly assigning LNP costs to the interstate jurisdiction for recovery via TS access charges.”<sup>3</sup>

As an initial matter, MCI WorldCom notes that the wording of petitioners’ request implies that it is not clear whether section 52.33(a) can be read to prohibit the recovery of LNP costs through interstate access charges. But the LNP Cost Recovery Order is completely clear: the Commission stated that “[b]ecause number portability is not an access-related service and IXC’s will incur their own costs for the querying of long-distance calls, we will not allow LECs to recover long-term number portability costs in interstate access charges.”<sup>4</sup> End user and query charges are the only cost-recovery mechanisms permitted by the Commission’s rules.

With the possible exception of an interim cost recovery mechanism for small ILECs whose only LNP-related cost is their NPAC assessment, the Commission should deny petitioners’ request for permission to recover LNP-related costs through interstate access charges. Small ILECs that purchase query services in order to provide joint local

---

<sup>2</sup>Petition at 3 (“In these instances, non-LNP-providing ILECs serve as the “N-1” carrier for all calls placed to NXXs served by the LNP-providing carrier, and incur usage-based charges for virtually all calls terminating in the neighboring ILECs’ LNP-capable exchanges. Costs associated with these charges are expected to be substantial.”).

<sup>3</sup>Id. at 4.

<sup>4</sup>Telephone Number Portability, Third Report and Order, CC Docket No. 95-116; RM 8535, released May 12, 1998, at ¶135 (LNP Cost Recovery Order).

calling with larger LNP-capable ILECs should recover their LNP costs through an end user charge.

## **II. Small ILECs that Provide Joint Local Calling Should Recover LNP-related Costs Through End User Charges**

The petitioners believe that small ILECs cannot recover their LNP-related costs through the end user surcharge because Section 52.33(a)(1)(A) permits ILECs outside the largest MSAs to assess LNP charges on end users only when the end users are “serve[d] from a number-portability-capable switch . . . .”<sup>5</sup> In the petitioners’ view, small ILECs do not meet this requirement.

The petitioners may be reading the term “number-portability-capable switch” too narrowly. The LNP Cost Recovery Order makes clear that an ILEC’s purchase of query services is in many ways equivalent to actual deployment of a “number portability capability.” As the Commission discusses in the LNP Cost Recovery Order, small ILECs “may find that their small customer bases make adding number portability capability to their own networks uneconomical” but could “benefit from economies of scale . . . by arranging for another carrier or third-party provider to provide number portability functionality for them . . . .”<sup>6</sup> The application of Section 52.33(a) to a small ILEC providing joint local calling should not depend on whether the ILEC chooses to

---

<sup>5</sup>Petition at 3 (citing 47 C.F.R. § 52.33(a)).

<sup>6</sup>LNP Cost Recovery Order at ¶138.

deploy its own LNP capability or chooses to purchase that capability in the form of a query service.

There is, therefore, no need for the Commission to waive or modify Section 52.33(a) in order to provide a cost recovery mechanism for those small ILECs that purchase query services to provide joint local calling. The Commission should simply confirm that Section 52.33(a)(1)(A) applies not only to those ILECs that deploy their own LNP-capable switches but also to those ILECs that purchase query services. Small ILECs that purchase query services in order to provide joint local calling would then recover their query and NPAC costs through an end user charge over five years, pursuant to Section 52.33(a)(1)(D).

If the Commission agrees with the petitioners that Section 52.33(a) applies only to those ILECs that deploy their own LNP-capable switches, then an interim waiver may be necessary to provide a cost recovery mechanism for small ILECs providing joint local calling with larger ILECs. The Commission should not, however, grant petitioners' request for permission to recover the query costs -- which petitioners describe as "substantial"<sup>7</sup> -- through interstate access charges assessed on IXC's, for the reasons discussed in the LNP Cost Recovery Order. Instead, the waiver should permit small ILECs that purchase query services to recover their LNP costs in the same manner as if they had deployed their own LNP capability: through an end user charge assessed over five years.

---

<sup>7</sup>Petition at 3.

### **III. The Commission Need Not Address Cost Recovery for Small ILECs Whose Only LNP-related Cost is their NPAC Assessment**

While Section 52.33(a)'s application to small ILECs that purchase query service, but have not deployed their own LNP capability, may be somewhat unclear, MCI WorldCom agrees with petitioners that the Commission's rules, as currently written, do not provide a cost recovery mechanism for ILECs outside the largest 100 MSAs whose only LNP-related cost is their NPAC contribution. These small ILECs do not appear to be covered by Section 52.33(a) because they have neither deployed their own LNP capability nor purchased query services.

The petitioners do not provide any estimate of small ILECs' NPAC costs. However, based on cost data supplied by the large ILECs in support of their LNP end user tariffs, these costs appear to be relatively low -- less than \$0.15 per line per year.<sup>8</sup> Given that these costs are minimal, the Commission may defer action on cost recovery for these ILECs to an order addressing the petitions for reconsideration of the LNP Cost Recovery Order that were filed by most of the same parties that are requesting this

---

<sup>8</sup>For example, U S West estimates its 1999 NPAC costs as \$2,420,913 (Transmittal No. 965, January 26, 1999, Workpaper 3, page 1). According to the 1997 Statistics of Communications Common Carriers, Table 2.10, U S West had 16,132,694 switched access lines. Therefore, U S West's NPAC cost per line is approximately \$0.15 per year, or \$0.01 per month. Similarly, Bell Atlantic's 1999 NPAC cost of \$7,076,400 and switched access line count of 39,883,414 yields an NPAC cost per line of \$0.18 per line per year. It would be expected that small ILECs' NPAC cost per line would be somewhat less than large ILECs' NPAC cost per line, given that the NPAC costs are allocated on a revenue basis and that small ILECs' revenue per line is probably less than large ILECs' revenue per line.

waiver.<sup>9</sup> The long-term mechanism should not permit recovery through interstate access charges; IXC's are already paying their share of NPAC costs directly.

If the Commission does find that it is necessary to provide some type of interim cost recovery mechanism for small ILEC's whose only LNP cost is their NPAC assessment, the Commission could permit recovery through interstate access charges -- but only on an interim basis and subject to two conditions. First, the Commission should make clear that the waiver applies only to those ILEC's that are not purchasing query service and have not deployed their own LNP capability. Small ILEC's that are either purchasing query service or have their own LNP capability should recover their LNP costs through an end user charge over five years, as discussed above. Second, the rate development for the NPAC-recovery access charge must be shown separately from the rate development for other traffic sensitive rates. The Commission could permit the NPAC-recovery charge to be combined with local switching for billing purposes, in order to simplify billing for both ILEC's and IXC's, but separate rate development is necessary to allow the Commission and interested parties to monitor the LNP costs that are being recovered through interstate access.

#### **IV. Conclusion**

With the possible exception of an interim cost recovery mechanism for small ILEC's whose only LNP-related cost is their NPAC assessment, the Commission should

---

<sup>9</sup>See, e.g., NECA Expedited Petition for Reconsideration, CC Docket No. 95-116, July 29, 1998.

deny petitioners' request for permission to recover LNP-related costs through interstate access charges.

Respectfully submitted,  
MCI WORLDCOM, INC.

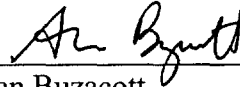
A handwritten signature in black ink, appearing to read "Alan Buzacott". The signature is fluid and cursive, with the first name "Alan" and last name "Buzacott" clearly distinguishable.

Alan Buzacott  
1801 Pennsylvania Ave., NW  
Washington, DC 20006  
(202) 887-3204

April 8, 1999

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on April 8 , 1999.



\_\_\_\_\_  
Alan Buzacott  
Regulatory Analyst  
1801 Pennsylvania Ave. NW  
Washington, D.C. 20006  
(202) 887-3204




## CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Opposition were sent via first class mail, postage paid, to the following on this 8th day of April, 1999.

International Transcription Services\*\*  
1231 20<sup>th</sup> Street, N.W.,  
Washington, DC 20036

\*\*HAND DELIVERED

  
Vivian I. Lee

Richard A. Askoff  
Regina McNeil  
NECA  
100 South Jefferson Road  
Whippany, NJ 07981

Margot Smiley Humphrey  
Koteen & Nafalin, LLP  
1150 Connecticut Avenue, NW,  
Suite 1000  
Washington, DC 20036

L. Marie Guillory  
Jill Canfield  
NTCA  
2626 Pennsylvania Avenue, N.W.  
Washington, DC 20037

Kathleen A. Kaercher  
Stuart Polikoff  
OPASTCO  
21 Dupont Circle, NW, Suite 700  
Washington, DC 20036

Lawrence E. Sarjeant  
Linda L. Kent  
Keith Townsend  
John W. Hunter  
USTA  
1401 H Street, NW, Suite 600  
Washington, DC 20005